

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHEASTERN DIVISION**

ANDREW MURRAY, PETER) Case 2:10-cv-00103-RRE-KKK
MURRAY, TIM CHAPMAN,)
RUAN GOUWS, HUGH BARRON,)
RAYMOND OWEN, MORNE VIVIERS,)
DORIN BUTNARIU, and)
ANDRE MARNEWECK, individually)
and on behalf of all similarly situated)
persons,)
Plaintiffs)
vs.) **PLAINTIFFS' MOTION FOR RULE 37(b)(2)**
) **SANCTIONS**
ALTENDORF TRANSPORT, INC.)
d.b.a.)
Altendorf Harvesting)
and)
JANICE MARIE ALTENDORF,)
individually,)
)
Defendants.)

TO THE ABOVE NAMED DEFENDANTS: Plaintiffs Andrew Murray et al., through their counsel of record and pursuant to Federal Rule of Civil Procedure 37 and Local Rule 37.1 hereby move this Court to impose discovery sanctions under Rule 37(b)(2) of the Federal Rules of Civil Procedure in consideration of Defendants' failure to comply with the Court's August 30, 2013 Order on Motion to Compel.

Specifically, Plaintiffs move this Court under Rule 37(b)(2)(A)(i) for an order deeming the following designated facts to be taken as established for the purposes of this action: 1) That for any and all class members who were employed by Defendants from October 24, 2004 through December 31, 2007, Defendants' general employment policies, as established by common evidence, result in classwide breach of the uniform contracts at issue in this case and

resulting expectation damages; and 2) That any and all class members who were employed by Defendants from October 24, 2004 through December 31, 2007 be deemed members of Class III.

Alternatively, Plaintiffs move this Court under Rule 37(b)(2)(A)(vii) for an order treating as contempt of court the failure to obey the Court's August 30, 2013 Order.

Plaintiffs certify that they have attempted to confer with the opposing party to resolve the dispute without intervention of the Court as required by D.N.D. Civ. L.R. 37.1(A) and Fed. R. Civ. P. 37(a)(1). Specifically, Plaintiffs initially attempted to address this matter by writing opposing counsel on October 21, 2013. See Ex. B. Plaintiffs also explicitly requested that counsel confer about this matter pursuant to L.R. 37.1(A) in emails dated October 29, 2013. See Ex. C. Plaintiffs did not receive a reply to this correspondence.

Respectfully submitted this 5th day of November, 2013.

By:



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